

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

**FAGE DAIRY INDUSTRY, S.A., FAGE USA
DAIRY INDUSTRY, INC., and FAGE
LUXEMBOURG S.Á.R.L.,**

Plaintiffs,

v.

**GENERAL MILLS, INC., and GENERAL MILLS
IP HOLDINGS II, LLC,**

Defendants.

**Civil Action No.
6:11-CV-1174 (DEP)
(Lead Case)**

**GENERAL MILLS, INC. and GENERAL MILLS
IP HOLDINGS II, LLC,,**

Plaintiffs,

v.

**FAGE DAIRY INDUSTRY, S.A.; FAGE USA
DAIRY INDUSTRY, INC., and FAGE USA
HOLDINGS, INC., FAGE USA, CORP., and FAGE
LUXEMBOURG S.Á.R.L.,**

Defendants.

**Civil Action No.
6:12-CV-0920 (DEP)
(Member Case)**

**DECLARATION OF DAVID L. NOCILLY IN SUPPORT OF
GENERAL MILLS' MOTION TO EXCLUDE THE EXPERT TESTIMONY OF
MICHAEL B. MAZIS, HAL PORET, PHILIP JOHNSON, AND
JAMES E. MALACKOWSKI**

DAVID L. NOCILLY declares, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am a member of the law firm of Bond, Schoeneck & King, PLLC, counsel for Defendants General Mills, Inc. and General Mills IP Holdings II, LLC (together, "General Mills") and I make this declaration in support of General Mills' motion to exclude the expert testimony of Michael B. Mazis, Hal Poret, Philip Johnson, and James E. Malackowski.

2. Attached as **Exhibit 1** are true and correct copies of pertinent excerpts of the certified, unsigned copy of the transcript of Dr. Michael B. Mazis's deposition, taken on February 22, 2013.

3. Attached as **Exhibit 2** is a true and correct copy of the report of Dr. Michael B. Mazis, dated December 20, 2012.

4. Attached as **Exhibit 3** is a true and correct copy of the "rebuttal" report of Dr. Michael B. Mazis, dated March 20, 2013.

5. Attached hereto as **Exhibit 4** is a true and correct copy of a March 13, 2013 email from Fage counsel to General Mills' counsel regarding the rebuttal report of Dr. Michael B. Mazis.

6. Attached as **Exhibit 5** is a true and correct copy of the report of James E. Malackowski, dated January 31, 2013 (**filed under seal**).

7. Attached as **Exhibit 6** is a true and correct copy of the report of Hal Poret, dated September 2012.

8. Attached as **Exhibit 7** are true and correct copies of pertinent excerpts of the certified, unsigned copy of the transcript of Hal Poret's deposition, taken on February 26, 2013.

9. Attached as **Exhibit 8** is a true and correct copies of the report of Philip Johnson, dated December 19, 2012.

10. Attached as **Exhibit 9** are true and correct copies of pertinent excerpts of the certified, unsigned copy of the transcript of Philip Johnson's deposition, taken on March 13, 2013

11. Attached as **Exhibit 10** are true and correct copies of pertinent excerpts of the certified, signed copy of the transcript of James E. Malackowski's deposition, taken March 22, 2013.

12. Attached as **Exhibit 11** is a true and correct copy of the report of Alex Simonson, dated October 19, 2012.

13. Attached as **Exhibit 12** are true and correct copies of the report of Anthony F. Dannible, dated December 21, 2012 (**filed under seal**).

14. Attached as **Exhibit 13** are true and correct copies of the rebuttal report of Anthony F. Dannible, dated March 14, 2013 (**filed under seal**).

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on June 4, 2013

s/David L. Nocilly

DAVID L. NOCILLY